

BOARD OF APPEALS CASE NO. 5077

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BEFORE THE

APPLICANT: Harford Mini Warehouse, LLC

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ZONING HEARING EXAMINER

REQUEST: Integrated community shopping center\*  
approval and variances from the required setbacks  
and buffer yards and for 2 free-standing signs;  
110-118 and 200-210 N. Tollgate Road, Bel Air

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OF HARFORD COUNTY

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Hearing Advertised

HEARING DATE: September 27, 2000

Aegis: 8/23/00 & 8/30/00

Record: 8/25/00 & 9/1/00

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### **ZONING HEARING EXAMINER'S AMENDED DECISION**

The Applicant, Harford Mini Warehouse, LLC, is seeking approval pursuant to Section 267-47 of the Harford County Code, for an Integrated Community Shopping Center (ICSC) and for the following variances:

1. a variance to permit existing billboard signs pursuant to Section 267-47A(6)(d);
2. a variance to permit a portion of the parking lot of the ICSC to be within the 25 foot buffer yard from an adjacent road (2 feet proposed) pursuant to Section 267-47A(5)(b);
3. a variance to the rear yard setback (30 feet required, 27 feet proposed) pursuant to Section 267-47B(5); and,
4. a variance to allow two (2) freestanding signs for an ICSC to be within the 2 foot front yard setback (9 feet proposed) in a B3 district pursuant to Section 219-13C(1)(g)(1).

The subject parcel is located at 110-118 and 200-210 Tollgate Road, Bel Air, Maryland 21014-4905 and is more particularly identified on Tax Map 49, Grid 3A, Parcels 259 and 168. The property is zoned B3/General Business, consists of 3.023 acres, more or less, and is entirely within the Third Election District.

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Mr. Louis Friedman appeared and testified that he was the owner of Harford Mini Warehouse, Inc. which in turn, owns the subject property. The property is located between Business Route 1 and the Business Route 1 bypass on the south side of Tollgate Road opposite Boulton Street and the Harford Mall. The witness indicated that the property is currently improved by a strip mall along Tollgate with mini warehouses to the rear. Proposed is additional, new mini warehouse/office complex and a newly constructed strip mall with improved storefront appearances. He has owned the property for 20 years and additional land is now available for construction that was once the septic drain field. Public sewer is now available. According to the witness, there is a great demand for climate controlled mini-storage.

Mr. Rowan Glidden appeared and qualified as an expert landscape architect and site planner. The witness described the subject parcel and the proposed ICSC. The property consists of two very irregularly shaped lots. The lots have a knoll to the rear and slope generally toward Tollgate Road and westward toward the Route 1 bypass. Proposed is a change to the intersection that will be reconfigured at Boulton Street, eliminating the necessity of a turn onto Tollgate in order to access the property. The design of the intersection proposed is consistent with directives issued by Harford County. The witness characterized the property as topographically unique and stated that these topographic features constrain the property. First, the parcels are very irregular in shape so setback lines are not at all square and regular. The existing knoll at the rear coupled with the slope to Tollgate and westward reduces the possibility of pad sites on the property. Sewer is available to the property that allows increased usage of the buildable area of the parcel. The slope limits location of directional signage.

Three buildings are proposed that will have both mini-storage and retail space combined. The request for the parking lot variance is required because Harford County roadwork is reducing the existing setback – the existing parking area is not proposed to be changed by the Applicant. There is also an existing billboard sign on Tollgate Road that is imbedded in steel-reinforced concrete. It is virtually impossible to remove such structures and it would be unduly burdensome and costly to require the Applicant to remove this and relocate it.

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As to the 27 foot setback variance, the building is proposed to be configured on the parcel in such a manner that the very corner of the building encroaches into the setback by 3 feet.

In the opinion of the witness, none of the variances would materially adversely impact any adjacent property. Moreover, the witness opined that the proposed improvements to the intersection and overall appearance would be an improvement over the existing appearance.

Mr. Richard Umbarger appeared and qualified as an expert environmental engineer. Mr. Umbarger described the large billboard sign currently existing on site and for which the Applicant seeks approval to retain. The sign is currently supported by 30 foot concrete filled steel tubes that are imbedded 20 feet deep in the ground. Removal and re-location would be costly and no practical benefit would be derived from requiring the Applicant to take these actions. Even after removal, the parking area would have two steel tubes protruding from the ground as a permanent impediment to traffic.

Mr. Sam Butz appeared and qualified as an expert architect. Mr. Butz described the proposed buildings and their proposed appearance. The marriage of retail and mini-warehouse space is unique but brings to the construction the attractive storefronts associated with up-scale retail areas. He described the request for the 3-foot setback as dictated by the unusual shape of the lot and the proposed building type. According to the witness it would be necessary to reduce the size of the structure by 10, not 3 feet, because the structures are set on 10 foot bearing supports. Thus, requiring the Applicant to comply with this setback requirement would create a reduction of 7 additional feet and impose a hardship on the Applicant. Market research indicates that 80,000 square feet is the profit threshold for such businesses and this reduction would bring the building below threshold. Mr. Butz described the building layouts, the traffic flow internal to the property and stated that there will be one apartment created for the live-in site manager.

Mr. Kenneth Schmid appeared and qualified as a traffic expert. The witness reviewed the intersection plan, the traffic flow and the parking areas of the proposed site. He described the upgraded intersection as a vast improvement to traffic flow, providing enhanced ingress/egress. The new intersection will allow traffic to disperse in 3 directions as opposed to the current 2.

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Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning (Department). The Department has concluded that the proposed ICSC is located within the Development Envelope in an area of commercial activity. The variance requests, according to the Department, result from either the irregular shape of the lots, the slope or the proposed improvements to Tollgate Road. The Department concluded that none of the variances, if granted, would adversely effect adjacent properties or materially impair the purposes of the Code. The Code requirements for an ICSC have been met by the Applicant.

There were no persons appearing in opposition to the request.

### **CONCLUSION:**

Section 267-47 provides for Integrated Community Shopping Centers (ICSC), as follows:

**A. Development standards.**

- (1) Permitted uses.** The uses permitted shall be those permitted in the appropriate district.
- (2) Site design.**
  - (a)** The project shall provide a unified arrangement of buildings, service areas, parking and landscaped areas.
  - (b)** The project shall be designed with regard to the topography and other natural features of the parcel.
  - (c)** Materials, massing and facade design for the project shall be harmonious with the character of the neighborhood.
  - (d)** Outside storage shall be limited as applicable in the appropriate district.
- (3) Vehicular circulation and access.**
  - (a)** The internal circulation system shall be designed to minimize through traffic and traffic conflicts within the project.
  - (b)** Safe pedestrian movement shall be considered in the vehicular plan.
- (4) Loading and service areas.**
  - (a)** All establishments must have vehicular service access, either from an individual service drive or from a common service yard.
  - (b)** All such service areas must be segregated from public areas and screened from public view.
  - (c)** Establishments over ten thousand (10,000) square feet in area must have loading berths at the rate of one (1) berth per twenty thousand (20,000) square feet or part thereof.

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- (5) Landscaping.**
  - (a)** Any part of a lot not used for buildings or other structures, or paved for off-street parking, loading and maneuvering areas, drives and pedestrian walks or incidental outside storage, shall be landscaped and properly maintained.
  - (b)** All parking lots, loading areas and outdoor storage areas shall be separated with buffer yards of at least twenty-five (25) feet from any adjacent roads and residential districts.
- (6) Signage.**
  - (a)** Freestanding identifying signs shall be limited to one (1) sign for each road frontage, one (1) sign for each entrance to the integrated community shopping center and one (1) directory of occupants for each entrance to the integrated community shopping center.
  - (b)** Signs to identify the use of an occupant shall be designed as part of the architectural design of the building and attached thereto.
  - (c)** Directional information signs shall be adequately provided and design coordinated.
  - (d)** The following types of signs shall not be permitted in an integrated community shopping center:
    - [1]** Billboards.
    - [2]** Any form of sign advertising a business, profession, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot, except that the directory of occupants of the integrated community shopping center is not included in this prohibition.
    - [3]** Flashing, revolving, rotating or changing-light-intensity or changing-color signs.

**B. Specific design requirements. An integrated community shopping center (ICSC), as defined in § 267-4, shall meet the following requirements:**

- (1)** Minimum road frontage of three hundred (300) feet.
- (2)** Maximum building coverage not to exceed:
  - (a)** District B1: thirty-five percent (35%).
  - (b)** District B2: forty percent (40%).
  - (c)** District B3: forty-five percent (45%).
- (3)** Maximum impervious surface not to exceed:
  - (a)** District B1: eighty percent (80%).
  - (b)** District B2: eighty-five percent (85%).
  - (c)** District B3: eighty-five percent (85%).
- (4)** No building shall be within forty (40) feet of the public road rights-of-way or ten (10) feet of parking areas.
- (5)** No building shall be less than thirty (30) feet from the parcel boundary nor fifty (50) feet from an adjacent residential district.

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**Section 267-11 permits variances and provides:**

**Variances from the provisions or requirements of this Code may be granted if the Board finds that:**

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.**

**The Applicant is also requesting a variance from Section 219-13C(1)(g)(1) of the Sign Code, which provides:**

**C. Business districts and industrial districts.**

- (1) Signs erected on and attached to commercial or industrial buildings. The total area of all signs erected on and attached to commercial or industrial buildings shall not exceed four (4) square feet per each linear foot of building width measured along the front wall or entrance wall of a building. If a building is located on a lot having frontage on two (2) streets, then the sign area for each side shall be calculated separately. The following types of signs shall be permitted:**

**(g) Freestanding signs.**

- [1] Freestanding signs identifying integrated community shopping centers. Freestanding signs identifying integrated community shopping centers shall be allowed, but the maximum sign area shall be determined independently from the sign area restrictions contained in § 219-5B. Freestanding signs shall not exceed one (1) square foot in area for each foot of road frontage or four hundred (400) square feet, whichever is smaller. One (1) such sign shall be permitted for each road frontage, or not more than two (2) signs shall be permitted along any frontage which exceeds five hundred (500) feet. The sign height shall not exceed forty (40) feet and shall be set back not less than twenty (20) feet from the front property line.**

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**Variances from the provisions of the Sign Code are provided for in Section 219-17:**

**The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.**

**The Applicant has described a proposed ICSC that meets all of the requirements set forth in the Harford County Code, Section 267-47. Because of the irregular shape of the property and the sloped configuration, the Hearing Examiner finds the property to contain unique topographic features. None of the variances requested by the Applicant will result in adverse impacts to adjacent properties, traffic flows, ingress or egress and will not materially impair the purposes of the Code.**

**Based on the un rebutted testimony of the Applicant and the Applicant's experts, the Hearing Examiner recommends approval of the requests set forth in the Application subject to the following conditions:**

- 1. A site plan shall be submitted for review and approval through the Development Advisory Committee (DAC).**
- 2. A traffic impact analysis be submitted for review and approval through the Development Advisory Committee (DAC), if required, as determined by the Adequate Public Facility Regulations.**
- 3. A preliminary plan be submitted for review and approval and a final plat recorded to combine the parcels prior to any application for any building permits for this site.**
- 4. That the site be developed in general compliance with Applicant's site plan (Attachment 6 to the Staff Report dated September 20, 2000).**
- 5. The Applicant submit a landscape and lighting plan for review and approval by Department of Planning and Zoning.**
- 6. The Applicant shall submit to the Department of Planning and Zoning for review and approval, an architectural rendering of the proposed facility.**

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7. The Applicant obtain any and all necessary permits and inspections.

Date NOVEMBER 20, 2000

William F. Casey  
Zoning Hearing Examiner